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REGULAR

NUMBER: 260

TITLE: AN ORDINANCE ADDING TITLE I, CHAPTER 600,
ENTITLED "DISPLAY OF FLAGS"
TO THE MILPITAS MUNICIPAL CODE

HISTORY: This ordinance was introduced at a meeting of the City Council of the City of
Milpitas on May 20, 2003, by motion of Councilmember
_____, and was finally adopted at a meeting of said Council on
_____, upon motion of Councilmember
_____ by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

ATTEST:

APPROVED:

Gail Blalock, City Clerk

Jose S. Esteves, Mayor

APPROVED AS TO FORM:

Steven T. Mattas, City Attorney

ORDAINING CLAUSE:

THE CITY COUNCIL OF THE CITY OF MILPITAS DOES ORDAIN AS FOLLOWS:

Section 1. Title I, Chapter 600, entitled "Display of Flags," is hereby added to the Milpitas Municipal Code as follows:

I-600-1 Definitions

I-600-1.1 City Hall Display Flag Poles. "City Hall Display Flag Poles" shall mean those three (3) flag poles situated at the northeast corner of the intersection of Calaveras Boulevard and Milpitas Boulevard in front of City Hall. "City Hall Display Flag Poles" shall also refer to those four (4) flag poles located to the rear of City Hall and adjacent to the pond, and those three (3) flag poles located at the Veteran's Memorial at City Hall.

I-600-1.2 Ceremonial Flag Poles. "Ceremonial Flag Poles" shall mean those two (2) City-owned flag poles situated at the City-owned Higuera Adobe which the City has designated to be used by members of the community to conduct flag raising ceremonies.

I-600-2 City Hall Display Flag Poles

I-600-2.1 City Hall Display Flag Poles. City Hall Display Flag Poles shall at all times be used exclusively by the City of Milpitas as follows:

- (1) Those three (3) flag poles located at the front of City Hall shall at all times be used exclusively by the City for the purpose of the display of the flags of the United States of America, the State of California, and the City of Milpitas in accordance with all applicable federal and state regulations.
- (2) Those four (4) flag poles located at the rear of City Hall adjacent to the pond shall at all times be used exclusively by the City for the purpose of the display of four (4) flags of the United States of America.
- (3) Those three (3) flag poles located at the Veteran's Memorial at City Hall shall at all times be used exclusively by the City for the purpose of the display of the flags of the United States of America, the State of California and the City of Milpitas in accordance with all applicable federal and state regulations.

I-600-2.2 Display of other flags at City Hall. The ceremonial display of flags other than the flags of the United States of America, State of California and City of Milpitas, on City Hall Display Flag Poles or within the Civic Center Complex and City of Milpitas Community Center is not permitted.

I-600-2.3 Exception – City Council Approved Ground Level Ceremonies. The City Council may, after a public hearing, direct City staff to permit the ground level display of a flag of another nation in existence after 1970, only at the following specified locations at the Civic Center complex or the City of Milpitas Community Center:

- (1) City Hall Rotunda
- (2) Area adjacent to pond at City Hall
- (3) City of Milpitas Community Center

Said flag display shall not be permitted on City Hall Display Flag Poles and shall only be permitted on a flagstaff, flagstand or similar device which does not cause the flag height to exceed ten (10) feet.

I-600-2.4 City Approval. All ground level ceremonies must be approved by the City Council. Any party intending to conduct a ground level ceremony at one of the designated locations shall submit an application to the Office of the City Manager, on a form approved by the City Council, at least forty-five (45) days prior to the requested ceremony date. A public hearing will be held regarding each ground level ceremony application prior to its approval or denial by the City Council.

I-600-3 Ceremonial Flag Poles

I-600-3.1 Location. The City's Ceremonial Flag Poles consist of two flag poles owned by the City of Milpitas and located at the Higuera Adobe in the City of Milpitas.

I-600-3.2 Use. The City's Ceremonial Flag Poles shall remain unused at all times other than during City-approved flag raising ceremonies. The Ceremonial Flag Poles shall be used only to conduct flag raising ceremonies in accordance with the provisions of this chapter.

I-600-3.3 Flag Raising Ceremony. Flag raising ceremonies shall be conducted in accordance with all applicable provisions of federal and state laws, including provisions of the United States Code and California Government Code relating to the proper display of flags. During an approved flag raising ceremony, one pole shall at all

times be used to raise and display the flag of the United States of America. The other flag pole shall be used to raise and display the flag of another nation. The flag of the United States of America displayed during a flag raising ceremony shall be equal to or larger in size and dimension than the other flag.

I-600-3.4 City Approval. All flag raising ceremonies must be approved by the City Council. Any party intending to conduct a flag raising ceremony at the City's designated Ceremonial Flag Poles shall submit an application to the Office of the City Manager, on a form approved by the City Council, at least forty-five (45) days prior to the requested ceremony date. A public hearing will be held regarding each flag raising ceremony application prior to its approval or denial by the City Council.

I-600-3.5 Limitation on Use. No individual or organization shall have more than one (1) flag raising ceremony per calendar year.

Section 2. **Severability.** In the event any section or portion of this ordinance shall be determined invalid or unconstitutional, such section or portion shall be deemed severable and all other sections or portions hereof shall remain in full force or effect.

Section 3. **Effective Date.** In accordance with California Government Code section 36937, this ordinance shall take effect and be in force on the thirty-first day after adoption.

Section 4. **Publication.** Within fifteen days after the passage of this ordinance the City Clerk shall cause this ordinance to be published once, with the names of those City Councilmembers voting for or against it, in the _____, a newspaper of general circulation in the City of Milpitas, as required by law